

Fair Political Practices Commission

To: Chairman Getman; Commissioners Downey, Knox and Swanson

From: Luisa Menchaca, General Counsel
Lawrence T. Woodlock, Senior Commission Counsel

Subject: Pending Litigation

Date: March 26, 2002

1. *California ProLife Council PAC v. Karen Getman et al.*

On January 11, 2002, Judge Frank C. Damrell heard cross motions for summary judgment on the three claims by plaintiff that had not been dismissed in earlier proceedings. On January 22, 2002, the court denied the motion for summary judgment filed by plaintiff, and granted the FPPC's motion, after concluding that "the constitutional case or controversy requirement of ripeness cannot be satisfied." The Court entered judgment accordingly on January 22, 2002, and on February 20, 2002 plaintiff filed a Notice of Appeal with the Ninth Circuit Court of Appeal.

2. *Institute of Governmental Advocates, et al. v. FPPC et al.*

The Institute of Governmental Advocates filed a Petition for Writ of Mandate with the Third District Court of Appeal, asking the court to stay enforcement of § 85702. Added to the Act by Proposition 34, this provision bars lobbyists from making contributions to candidates and officeholders whom the lobbyists are registered to lobby. The Court of Appeal denied the Petition, and the action was refiled in federal district court, which decided the matter on cross motions for summary judgment on September 17, 2001. Judge Frank C. Damrell granted the Commission's motion and denied Plaintiffs' cross motion. The Court entered judgement for the FPPC, and plaintiffs filed a Notice of Appeal to the Ninth Circuit Court of Appeals. The parties then stipulated to a dismissal of the appeal, and the litigation has therefore come to an end.

3. *Danny L. Gamel et al. v. FPPC*

In September, 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs contested this decision by Writ of Mandate in the Fresno County Superior Court. On March 21, 2002, the Court upheld the Commission's determination that Dan Gamel and Rudy Olmos violated the Act, but vacated the finding against Gamel Inc. The penalties assessed against

Dan Gamel were affirmed but the Court remanded the case to the Commission for reconsideration of the penalty assessed against Rudy Olmos.

Levine et al. v. FPPC

On January 22, 2002, four publishers of “slate mail” – Larry Levine, Tom Kaptain, Scott Hart and the California Republican Assembly – filed suit in Federal District Court alleging that the Act’s slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. Plaintiffs’ motion for preliminary injunction will be heard before Judge Lawrence K. Karlton on May 6, 2002.